IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
Appeal from Order No.490 of 2007.

Pandurang Mahipat Jadhav ..Appellant

versus

Shri Ramesh Mahipat Jadhav
& Another ..Respondents.

Mr.G.A.Tambe for the Appellant

Mr.I.S.Singh for the respondent

Coram : S.R.Sathe, J.
Dated : 25th Oct., 2007

P.C.

1. Heard both the learned advocates as well as the parties who are present in the Court. The Original plaintiff Vinod Ramesh Jadhav has stated that in February 2007 he was evicted by the Original Defendant No.2 from Chawl No.13, Room No.19, Tilak Nagar Transit Camp. So, also the person original defendant No.2 also submits that as on today he is not residing in either of the premises mentioned in the plaint. Under the circumstances, it is very clear that when the temporary injunction order was passed the original plaintiff was not at all occupying either of the premises. So, there was no question of defendant evicting him from the said premises. Under the circumstances, the Order passed

by the learned trial Judge dated 12.4.2007 is set aside and Notice of Motion is dismissed.

2. The trial Court is directed to decide the suit on merits according to law as expeditiously as possible and in any event by the end of 31.3.2008.

3. Both the parties are directed to co-operate the trial court for expeditious disposal of the suit.

4. The original defendant No.2 i.e. the present appellant undertakes that he shall not create any third party interest in respect of the new premises i.e. Nagsen Co-operative Housing Society, Building No.410, Mazgaon, Mumbai 400 010 till the disposal of the suit.

5. The appellant gives undertaking that if he gets the premises in lieu of old premises he will not create any third party rights in the same.

6. A.O. disposed of accordingly.

(S.R.Sathe, J.)